

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The subject matter of subrule 71.1(3) is the valuation of agricultural real estate. The amendment to this subrule implements the amendments to Iowa Code sections 427A.1(4) and 441.21(12) pursuant to 2013 Iowa Acts, House File 632, which add real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production to the definition of "agricultural property."

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1042C** on October 2, 2013. One comment was received from the public. The comment, submitted by the Iowa Farm Bureau Federation, recommended an amendment to clarify that woodland, wasteland, and pastureland held in conjunction with vineyards as defined in paragraph "b" of subrule 71.1(3) qualify as agricultural real estate.

Paragraph 71.1(3)"a" as published under Notice of Intended Action has been revised to incorporate the change suggested by the Iowa Farm Bureau Federation.

After analysis and review of this rule making, no adverse impact on jobs has been found. The expansion of the definition of "agricultural property" may positively impact job and economic growth for businesses and individuals in the state of Iowa.

This amendment is intended to implement Iowa Code sections 427A.1(4) and 441.21(12) as amended by 2013 Iowa Acts, House File 632.

This amendment will become effective January 1, 2014.

The following amendment is adopted.

Amend subrule 71.1(3) as follows:

71.1(3) Agricultural real estate.

a. *Generally.* Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in paragraph "a" or "b" of this subrule.

b. *Vineyards.* ~~Vineyards~~ Beginning with valuations established on or after January 1, 2002, vineyards and any buildings located on a vineyard and used in connection with the vineyard shall be classified as agricultural real estate if the primary use of the land and buildings is an activity related to the production or sale of wine.

~~Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this subrule.~~

c. *Algae cultivation and production.* Beginning with valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production shall be classified as agricultural real estate if the real estate is an enclosed pond or land which contains a photobioreactor. Pursuant to 2013 Iowa Acts, House File 632, section 1, a photobioreactor is not attached to land upon which it sits and shall not be assessed and taxed as real property.

(1) *Determining direct usage.* To determine if real estate is used "directly" in the cultivation and production of algae, one must first ensure that the real estate is used to perform activities that cultivate and produce algae and is not used for activities that occur before or after the cultivation and production

of algae. If the real estate is used to perform activities for the cultivation and production of algae, to be “directly” so used, the real estate must be used to perform activities that are integral and essential to the cultivation and production, as distinguished from activities that are incidental, merely convenient to, or remote from cultivation and production. The fact that real estate is used for activities that are essential or necessary to the cultivation and production of algae does not mean that the real estate is also “directly” used in production. Even if the real estate is used for activities that are essential or necessary to the cultivation and production of algae, if the activities are far enough removed from the cultivation or production of algae, the real estate would not qualify for the agricultural designation.

(2) Examples. The following are nonexclusive examples of real estate which would not be directly used in the cultivation and production of algae:

1. Real estate that is used to store, assemble, or repair machinery and equipment that is used for cultivation and production of algae.
2. Real estate that is used in the management, administration, advertising, or selling of algae.
3. Real estate that is used in the management, administration, or planning of the cultivation and production of algae.
4. Real estate that is used for packaging of the algae which has been produced and cultivated.

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